HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1655 OF 2005.

Smt. Dhanpati Devi Sampatraj Laddha. ...Applicant.

V/s.

The State of Maharashtra & Ors. ...Respondents.

Shri Ramrao Adik, Sr.Counsel with Shri Rishi Bhuta, for applicant.

Shri A.S.Gadkari, APP for State.

Shri A.P.Mundargi with Shri Balkrishna D. Joshi, for respondent No.2 and 3.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 19, 2005

P.C. :-

1. Heard the counsel for the parties.

2. This application takes exception to the order passed by Shri A.D.Babrekar, Additional Sessions Judge, Greater Mumbai, granting bail to respondent No.2 and 3, accused No.2 and 3 respectively. The sole reason which influenced the trial Judge to grant bail to respondent No. 2 and 3 can be seen from the paragraph Nos. 9 and 13 of the order. The grievance in the present application by the complainant is that the opinion so recorded is error apparent on the face of the record, in as much as the F.I.R. clearly spells out the

prosecution case to the contrary.

3. After considering rival submision, as the investigation is completed and chargesheet has been filed, the counsel appearing for the respondent No.2 and 3 on instruction of Respondent No.2 who is personally present in the court, requested this court not to record detailed reason while disposing of this application and instead leave all questions open to be decided by the Lower Court afresh while considering the regular bail application to be filed by respondent No.2 and 3 upon surrendering before the appropriate court within specified time, as may be granted by this court.

4. Accordinly, this application is allowed. The impugned order is set aside. However, respondent No.2 and 3 are granted time till 28th April, 2005 to surrender before the appropriate court and apply for regular bail afresh, which will be considered in accordance with the law, on its own merit, uninfluenced by the impugned order or the present order.

5. The respondent No.2 and 3, not to be arrested till 28/4/2005 or till they surrender before the appropriate court, which ever is earlier.

6. Copy of this order be marked to Registrar General, who shall place the same before the appropriate authority for necessary action, as it is obvious that the sole basis on which the learned Judge of Lower court proceeded to grant bail in favour of the respondent No.2 and 3 is contrary to the contents of the F.I.R and the offence is one under section 304 B, 498 A, 406, 34 I.P.C.